

classrooms where the language of instruction is English or to participate fully in our society.

(Authority: 20 U.S.C. 3283(a)(1))

Governor includes the chief executive officer of a State that does not have a Governor.

Homeless or homeless adult:

(1) The terms mean an adult lacking a fixed, regular, and adequate nighttime residence as well as an individual having a primary nighttime residence that is—

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) The terms do not include any adult imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(Authority: 42 U.S.C. 11301)

Immigrant means any refugee admitted or paroled into this country or any alien except one who is exempt under the provisions of the Immigration and Nationality Act, as amended.

(Authority: 8 U.S.C. 1101(a)(15))

Institutionalized individual means an adult, as defined in the Act, who is an inmate, patient, or resident of a correctional, medical, or special institution.

Literacy means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and to develop one's knowledge and potential.

Migrant farmworker means a person who has moved within the past 12 months from one school district to another—or, in a State that is comprised of a single school district, has moved from one school administrative area to another—to enable him or her to obtain temporary or seasonal employ-

ment in any activity directly related to—

(1) The production or processing of crops, dairy products, poultry, or livestock for initial commercial sale or as a principal means of personal subsistence;

(2) The cultivation or harvesting of trees; or

(3) Fish farms.

Outreach means activities designed to—

(1) Inform educationally disadvantaged adult populations of the availability and benefits of the adult education program;

(2) Actively recruit these adults to participate in the adult education program; and

(3) Assist these adults to participate in the adult education program by providing reasonable and convenient access and support services to remove barriers to their participation in the program.

Program year means the twelve-month period during which a State operates its adult education program.

State administrative costs means costs for those management and supervisory activities necessary for direction and control by the State educational agency responsible for developing the State plan and overseeing the implementation of the adult education program under the Act. The term includes those costs incurred for State advisory councils under section 332 of the Act, but does not include costs incurred for such additional activities as evaluation, teacher training, dissemination, technical assistance, and curriculum development.

(Authority: 20 U.S.C. 1201 *et seq.*)

[54 FR 34409, Aug. 18, 1989. Redesignated and amended at 57 FR 24091, 24092, June 5, 1992]

PART 461—ADULT EDUCATION STATE-ADMINISTERED BASIC GRANT PROGRAM

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AUTHORITY: 20 U.S.C. 1201 *et seq.*, unless otherwise noted.

SOURCE: 57 FR 24092, June 5, 1992, unless otherwise noted.

Subpart A—General

§ 461.1 What is the Adult Education State-administered Basic Grant Program?

The Adult Education State-administered basic Grant Program (the program) is a cooperative effort between the Federal Government and the States to provide adult education. Federal funds are granted to the States on a formula basis. Based on need and resources available, States fund local programs of adult basic education, programs of adult secondary education, and programs for adults with limited English proficiency.

(Authority: 20 U.S.C. 1203)

§ 461.2 Who is eligible for an award?

State educational agencies (SEAs) are eligible for awards under this part.

(Authority: 20 U.S.C. 1203)

§ 461.3 What are the general responsibilities of the State educational agency?

(a) A State that desires to participate in the program shall designate the SEA as the sole State agency responsible for the administration and supervision of the program under this part.

(b) The SEA has the following general responsibilities:

(1) Development, submission, and implementation of the State application and plan, and any amendments to these documents.

(2) Evaluation of activities, as described in section 352 of the Act and § 461.46.

(3) Consultation with the State advisory council, if a State advisory council has been established under section 332 of the Act and § 461.50.

(4) Consultation with other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under the Act.

(5)(i) Assignment of personnel as may be necessary for State administration of programs under the Act.

(ii) The SEA must ensure that—

(A) These personnel are sufficiently qualified by education and experience; and

(B) There is a sufficient number of these personnel to carry out the responsibilities of the State.

(6) If the State imposes any rule or policy relating to the administration and operation of programs under the Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guidance), the SEA shall identify the rule or policy as a State-imposed requirement.

(7) By July 25, 1993, development and implementation, in consultation with a widely representative group of appropriate experts, educators, and administrators, of indicators of program quality to be used to evaluate programs assisted under this part, as required by section 352 of the Act and § 461.46, to determine whether those programs are effective, including whether those programs are successfully recruiting, retaining, and improving the literacy skills of the individuals served under those programs.

(Authority: 20 U.S.C. 1205 (a) and (b))

§ 461.4 What regulations apply?

The following regulations apply to the program:

(a) The regulations in this part 461.

(b) The regulations in 34 CFR part 460.

(Authority: 20 U.S.C. 1201 *et seq.*)

§ 461.5 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) For the purposes of this part, “State” includes the Federated States

of Micronesia and the Republic of the Marshall Island.

(Authority: 20 U.S.C. 1201 *et seq.*)

Subpart B—How Does a State Apply for a Grant?

§ 461.10 What documents must a State submit to receive a grant?

An SEA shall submit the following to the Secretary as one document:

(a) A State plan, developed once every four years, that meets the requirements of the Act and contains the information required in § 461.12.

(b) A State application consisting of program assurances, signed by an authorized official of the SEA, to provide that—

(1) The SEA will provide such methods of administration as are necessary for the proper and efficient administration of the Act;

(2) Federal funds granted to the State under the Act will be used to supplement, and not supplant, the amount of State and local funds available for uses specified in the Act;

(3) Programs, services, and activities funded in accordance with the uses specified in section 322 of the Act are designed to expand or improve the quality of adult education programs, including programs for educationally disadvantaged adults, to initiate new programs of high quality, or, if necessary, to maintain programs;

(4) The SEA will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including Federal funds paid by the State to eligible recipients under the Act);

(5) The SEA has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public;

(6) The SEA will comply with the maintenance of effort requirements in section 361(b) of the Act;

CROSS-REFERENCE: See § 461.42 What is the maintenance of effort requirement?

(7) Adults enrolled in adult basic education programs, including programs

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for adults with limited English proficiency, will not be charged tuition, fees, or any other charges, or be required to purchase any books or any other materials that are needed for participation in the program;

(8) The SEA may use not more than 20 percent of the funds granted to the State under the Act for programs of equivalency for a certificate of graduation from secondary school;

(9) As may be required by the Secretary, the SEA will report information concerning special experimental demonstration projects and teacher training projects supported under section 353 of the Act; and

(10) The SEA annually will report information about the State's adult education students, programs, expenditures, and goals, as may be required by the Secretary. (Approved by the Office of Management and Budget under control number 1830-0026.)

(Authority: 20 U.S.C. 1203a(b)(2), 1206(a), 1206b, 1207a, 1208, and 1209(b))

§ 461.11 How is the State plan developed?

In formulating the State plan, the SEA shall—

(a) Meet with and utilize the State advisory council, if a council is established under section 332 of the Act and § 461.50;

(b) After providing appropriate and sufficient notice to the public, conduct at least two public hearings in the State for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups, an opportunity to present their views and make recommendations regarding the State plan;

(c) Make a thorough assessment of —

(1) The needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those currently served by the program; and

(2) The capability of existing programs and institutions to meet those needs; and

(d) State the changes and improvements required in adult education to fulfill the purposes of the Act and the options for implementing these

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changes and improvements. (Approved by the Office of Management and Budget under control number 1830-0026.)

(Authority: 20 U.S.C. 1206a(a)(1) and (2), (b))

§ 461.12 What must the State plan contain?

(a) Consistent with the assessment described in § 461.11(c), a State plan must, for the four-year period covered by the plan—

(1) Describe the adult education needs of all segments of the adult population in the State identified in the assessment, including the needs of those adults who are educationally disadvantaged;

(2) Describe and provide for the fulfillment of the literacy needs of individuals in the State;

(3) Set forth measurable goals for improving literacy levels, retention in literacy programs, and long-term learning gains of individuals in the State and describe a comprehensive approach for achieving those goals, including the development of indicators of program quality as required by section 331(a)(2) of the Act and § 461.3(b)(7).

(4) Describe the curriculum, equipment, and instruments that are being used by instructional personnel in programs and indicate how current these elements are;

(5) Describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals of limited English proficiency, and adults with disabilities) through coordination by agencies, institutions, and organizations including the public school system, businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

(6) Describe the means by which representatives of the public and private sectors were involved in the development of the State plan and how they will continue to be involved in the implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and

collaboration with those public and private agencies, institutions, and organizations;

(7) Describe the capability of existing programs and institutions to meet the needs described in paragraph (a)(1) of this section, including the other Federal and non-Federal resources available to meet those needs;

(8) Describe the outreach activities that the State intends to carry out during the period covered by the plan, including specialized efforts—such as flexible course schedules, auxiliary aids and services, convenient locations, adequate transportation, and child care services—to attract and assist meaningful participation in adult education programs;

(9)(i) Describe the manner in which the SEA will provide for the needs of adults of limited English proficiency or no English proficiency by providing programs designed to teach English and, as appropriate, to allow these adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible.

(ii) These programs may, to the extent necessary, provide instruction in the native language of these adults or may provide instruction exclusively in English.

(iii) These programs must be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational and Applied Technology Education Act;

(10) Describe how the particular education needs of adult immigrants, the incarcerated, adults with disabilities, the chronically unemployed, homeless adults, the disadvantaged, and minorities in the State will be addressed;

(11)(i) Describe the progress the SEA has made in achieving the goals set forth in each State plan subsequent to the initial State plan filed in 1989; and

(ii) Describe how the assessment of accomplishments and the findings of program reviews and evaluations required by section 352 of the Act and § 461.46 were considered in establishing the State's goals for adult education in the plan being submitted;

(12) Describe the criteria the SEA will use in approving applications by eligible recipients and allocating funds made available under the Act to those recipients;

(13) Describe the methods proposed for joint planning and coordination of programs carried out under the Act with programs conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to ensure maximum use of funds and to avoid duplication of services;

(14) Describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out under section 382 of the Act and 34 CFR part 476, but only to the extent that those volunteers supplement and do not supplant salaried employees;

(15) Describe the measures to be taken to ensure that adult education programs, services, and activities under the Act will take into account the findings of program reviews and evaluations required by section 352 of the Act and § 461.46;

CROSS-REFERENCE: See § 461.22. What criteria does the Secretary use in approving a State's description of efforts relating to program reviews and evaluation?

(16) Report the amount of administrative funds to be spent on program improvements;

(17) Contain assurances that financial assistance provided under this part is used to assist and expand existing programs and to develop new programs for—

(i) Adults whose lack of basic skills renders them unemployable;

(ii) Adults whose lack of basic skills keeps them, whether employed or unemployed, from functioning independently in society; and

(iii) Adults whose lack of basic skills severely reduces their ability to have a

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positive effect on the literacy of their children;

(18) Describe the SEA's policies, procedures, and activities for carrying out special experimental demonstration projects and teacher training projects that meet the requirements of § 461.33;

(19) Describe the SEA's policies, procedures, and activities for carrying out corrections education and education for other institutionalized adults that meet the requirements of § 461.32;

(20) Describe the SEA's planned use of Federal funds for administrative costs under § 461.40(a), including any planned expenditures for a State advisory council under § 461.50.

NOTE: An additional source of funding exists under section 356(g) of the Act and 34 CFR part 464, but need not be reported under this paragraph.

and

(21) Include a summary of recommendations received and the SEA's responses to the recommendations made through the State plan development process required under § 461.11(b).

(b) Each State plan must provide assurance that public or private nonprofit entities eligible under § 461.30—local educational agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, institutions that serve educationally disadvantaged adults, and any other institution that has the ability to provide literacy services to adults and families—will be provided direct and equitable access to all Federal funds provided under this part, including—

(1) The right to submit applications directly to the SEA for those funds; and

(2) Use by the SEA of a process for selecting recipients of those funds that gives each agency, institution, and organization a fair chance of receiving an award.

(c) To be eligible to participate in the State-administered Workplace Literacy Program under section 371(b) of the Act, an SEA shall comply with the requirements in 34 CFR 462.10.

(d) To be eligible to participate in the State-administered English Lit-

eracy Program under section 372(a) of the Act, an SEA shall comply with the requirements in 34 CFR 463.10.

(e) In order for a State, or the local recipients within the State, to be eligible to apply for funds under the Adult Migrant Farmworker and Immigrant Education Program under section 381 of the Act and 34 CFR part 475, an SEA shall describe the types of projects appropriate for meeting the educational needs of adult migrant farm workers and immigrants under section 381 of the Act.

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(Authority: 20 U.S.C. 1203a(a)(1); 1204; 1205(c); 1206a(a)(2), (b)(1)(B), (c), (d); 1208; 1211(b)(3)(A); 1211a(a)(2); and 1213(a))

§ 461.13 What procedures does a State use to submit its State plan?

(a) An SEA shall submit its State plan to the Secretary not later than 90 days prior to the first program year for which the plan is in effect.

(b)(1) Not less than sixty days prior to submitting the State plan to the Secretary, the SEA shall give the State advisory council, if one is established under section 332 of the Act and § 461.50, an opportunity to review and comment on the plan.

(2) The SEA shall respond to all timely and substantive objections of the State advisory council and include with the State plan a copy of those objections and its response.

(c)(1) Not less than sixty days prior to submitting the State plan to the Secretary, the SEA shall give the following entities an opportunity to review and comment on the plan:

(i) The State board or agency for vocational education.

(ii) The State Job Training Coordinating Council under the Job Training Partnership Act.

(iii) The State board or agency for postsecondary education.

(2) Comments (to the extent those comments are received in a timely fashion) of entities listed in paragraph

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(c)(1) of this section and the SEA's response must be included with the State plan.

(Approved by the Office of Management and Budget under control number 1830-0026)

(Authority: 20 U.S.C. 1206(b) and 1206a(a)(3) (A) and (B))

§ 461.14 When are amendments to a State plan required?

(a) *General.* If an amendment to the State plan is necessary, the SEA shall submit the amendment to the Secretary not later than 90 days prior to the program year of operation to which the amendment applies.

(b) *Indicators of program quality.* Each SEA shall amend its plan by July 25, 1993, to include the indicators of program quality required by section 331 of the Act and § 461.3(b)(7). Cross-Reference: See 34 CFR 76.140-76.142 Amendments.

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(Authority: 20 U.S.C. 1207(a))

Subpart C—How Does the Secretary Make a Grant to a State?

§ 461.20 How does the Secretary make allotments?

The Secretary determines the amount of each State's grant according to the formula in section 313(b) of the Act.

(Authority: 20 U.S.C. 1201b(b))

§ 461.21 How does the Secretary make reallotments?

(a) Any amount of any State's allotment under section 313(b) of the Act that the Secretary determines is not required, for the period the allotment is available, for carrying out that State's plan, is reallotted to other States on dates that the Secretary may fix.

(b) The Secretary determines any amounts to be reallotted on the basis of—

(1) Reports, filed by the States, of the amounts required to carry out their State plans; and

(2) Other information available to the Secretary.

(c) Reallotments are made to other States in proportion to those State's original allotments for the fiscal year in which allotments originally were made, unless the Secretary reduces a State's proportionate share by the amount the Secretary estimates will exceed the sum the State needs and will be able to use under its plan.

(d) The total of any reductions made under paragraph (c) of this section is reallotted among those States whose proportionate shares were not reduced.

(e)(1) Any amount reallotted to a State during a fiscal year is deemed part of the State's allotment for that fiscal year.

(2) A reallotment of funds from one State to another State does not extend the period of time in which the funds must be obligated.

(Authority: 20 U.S.C. 1201b(c))

§ 461.22 What criteria does the Secretary use in approving a State's description of efforts relating to program reviews and evaluations?

The Secretary considers the following criteria in approving a State's description of efforts relating to program reviews and evaluations under section 342(c)(13) of the Act and § 461.12(a)(15):

(a) The extent to which the State will have effective procedures for using the findings of program reviews and evaluations to identify, on a timely basis, those programs, services, and activities under the Act that are not meeting the educational goals set forth in the State plan and approved applications of eligible recipients.

(b) The adequacy of the State's procedures for effecting timely changes that will enable programs, services, and activities identified under paragraph (a) of this section to meet the educational goals in the State plan and approved applications of eligible recipients.

(c) The extent to which the State will continue to review those programs, activities, and services, and affect further changes as necessary to meet those educational goals.

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(Authority: 20 U.S.C. 1206a(c)(13) and 1207a)

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§ 461.23 How does the Secretary approve State plans and amendments?

(a) The Secretary approves, within 60 days of receipt, a State plan or amendment that the Secretary determines complies with the applicable provisions of the Act and the regulations in this part.

(b) In approving a State plan or amendment, the Secretary considers any information submitted in accordance with § 461.13 (b) and (c).

(c) The Secretary notifies the SEA, in writing, of the granting or withholding of approval.

(d) The Secretary does not finally disapprove a State plan or amendment without first affording the State reasonable notice and opportunity for a hearing.

(Authority: 20 U.S.C. 1206(b), 1206a(a)(3), and 1207(b))

Subpart D—How Does a State Make an Award to an Eligible Recipient?

§ 461.30 Who is eligible for a subgrant or contract?

(a) The following public or private nonprofit entities are eligible to apply to the SEA for an award:

- (1) A local educational agency (LEA).
- (2) A public or private nonprofit agency.
- (3) A correctional education agency.
- (4) A community-based organization.
- (5) A postsecondary educational institution.
- (6) An institution that serves educationally disadvantaged adults.
- (7) Any other institution that has the ability to provide literacy services to adults and families.

(b) A public or private nonprofit entity listed in paragraph (a) of this section may apply on behalf of a consortium that includes a for-profit agency, organization, or institution that can make a significant contribution to attaining the objectives of the Act.

(c)(1) Each State shall also use an amount of funds provided under this part, as determined by the State given the State's needs and resources for adult education, for competitive 2-year grants to public housing authorities for literacy programs and related activi-

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ties. Any public housing authority that receives a grant under this paragraph shall consult with local adult education providers in conducting programs and activities with assistance provided under the grant. Any grant provided under this paragraph is referred to as a “Gateway Grant.”

(2) For the purposes of this part, “public housing authority” means a public housing agency, as defined in 42 U.S.C. 1437a(b)(6), that participates in public housing, as defined in 42 U.S.C. 1437a(b)(1).

(Authority: 20 U.S.C. 1203a(a)(1), (2), (3)(A))

§ 461.31 How does a State award funds?

(a) In selecting local recipients, an SEA shall give preference to those local applicants that have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults, particularly in areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent.

(b) An SEA shall award funds on the basis of applications submitted by eligible recipients.

(c) In reviewing a local application, an SEA shall determine that the application contains the following:

(1) A description of current programs, activities, and services receiving assistance from Federal, State, and local sources that provide adult education in the geographic area proposed to be served by the applicant.

(2) A description of cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults.

(3) Assurances that the adult educational programs, services, or activities that the applicant proposes to provide are coordinated with and do not duplicate programs, services, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Rehabilitation Act

of 1973, the Individuals with Disabilities Education Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

(4) The projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals.

(5) Any other information the SEA considers necessary.

(d) In determining which programs receive assistance, the SEA shall consider—

(1) The past effectiveness of applicants in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by those adults);

(2) The degree to which the applicant will coordinate and utilize other literacy and social services available in the community; and

(3) The commitment of the applicant to serve individuals in the community who are most in need of literacy services.

(e) In reviewing a local application, an SEA may consider the extent to which the application—

(1) Identifies the needs of the population proposed to be served by the applicant;

(2) Proposes activities that are designed to reach educationally disadvantaged adults;

(3) Describes a project that gives special emphasis to adult basic education;

(4) Describes adequate outreach activities, such as—

(i) Flexible schedules to accommodate the greatest number of adults who are educationally disadvantaged;

(ii) Location of facilities offering programs that are convenient to large concentrations of the adult populations identified by the State in its four-year State plan or how the locations of facilities will be convenient to public transportation; and

(iii) The availability of day care and transportation services to participants in the project;

(5) Describes proposed programs, activities, and services that address the identified needs;

(6) Describes the resources available to the applicant—other than Federal and State adult education funds—to meet those needs (for example, funds provided under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Indian Education Act, the Higher Education Act of 1965, or the Domestic Volunteer Service Act, and local cash or in-kind contributions); and

(7) Describes project objectives that can be accomplished within the amount of the applicant's budget request.

(f) An SEA may not approve an application for a consortium that includes a for-profit agency, organization or institution unless the State has first determined that—

(1) The for-profit entity can make a significant contribution to attaining the objectives of the Act; and

(2) The public or private nonprofit agency, organization, or institution will enter into a contract with the for-profit agency, organization, or institution for the establishment or expansion of programs.

(g) If an SEA awards funds to a consortium that includes a for-profit agency, organization, or institution, the award must be made directly to the public or private nonprofit agency, organization, or institution that applies on behalf of the consortium.

(Approved by the Office of Management and Budget under control number 1830-0501)

(Authority: 20 U.S.C. 1203a(a) and 1206a(c)(4))

§ 461.32 What are programs for corrections education and education for other institutionalized adults?

(a) An SEA shall use not less than 10 percent of its grant for educational programs for criminal offenders in corrections institutions and for other institutionalized adults. Those programs may include—

(1) Academic programs for—(i) Basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

(ii) Special education, as defined by State law;

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- (iii) Bilingual education or English-as-a-second-language instruction; and
- (iv) Secondary school credit;
- (2) Vocational training programs;
- (3) Library development and library service programs;
- (4) Corrections education programs, including training for teacher personnel specializing in corrections education, such as courses in social education, basis skills instruction, and abnormal psychology;
- (5) Guidance and counseling programs;
- (6) Supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and
- (7) Cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, that are designed to provide education and training.

(b)(1) An SEA shall establish its own statewide criteria and priorities for administering programs for corrections education and education for other institutionalized adults.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains the information in § 461.31(c) and any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1203a(b)(1) and 1204)

§ 461.33 What are special experimental demonstration projects and teacher training projects?

(a) In accordance with paragraph (b) of this section, an SEA shall use at least 15 percent of its grant for—

- (1) Special projects that—
 - (i) Will be carried out in furtherance of the purposes of the Act;
 - (ii) Will be coordinated with other programs funded under the Act; and
 - (iii)(A) Involve the use of innovative methods (including methods for educating adults with disabilities, homeless adults, and adults of limited English proficiency), systems, materials, or programs that may have national significance or will be of special value in promoting effective programs under the Act; or

(B) Involve programs of adult education, including education for adults with disabilities, homeless adults, and adults of limited English proficiency, that are part of community school programs, carried out in cooperation with other Federal, State, or local programs that have unusual promise in promoting a comprehensive or coordinated approach to the problems of adults with educational deficiencies; and

(2)(i) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of the Act; and

(ii) Training professional teachers, volunteers, and administrators, with particular emphasis on—

(A) Training— (1) Full-time professional adult educators;

(2) Minority adult educators; and

(3) Educators of adults with limited English proficiency; and

(B) Training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have reading ability below the fifth grade level.

(b) An SEA shall use at least—

(1) 10 percent of its grant for the purposes in paragraph (a)(2) of this section; and

(2) Five percent of its grant for the purposes in paragraph (a)(1) or (a)(2) of this section, or both.

(c)(1) An SEA shall establish its own statewide criteria and priorities for providing and administering special experimental demonstration projects and teacher training projects.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains—

- (i) The information in § 461.31(c); and
- (ii) Any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1208)

Subpart E—What Conditions Must be Met by a State?

§ 461.40 What are the State and local administrative costs requirements?

(a)(1) Beginning with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appropriated in the fiscal year 1991 appropriation), an SEA may use no more than 5 percent of its grant or \$50,000—

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whichever is greater—for necessary and reasonable State administrative costs.

(2) For grants awarded from funds appropriated for fiscal years prior to fiscal year 1991 (grants awarded before July 1, 1991), an SEA may determine what percent of its grant is necessary and reasonable for State administrative costs.

(b)(1) At least 95 percent of an eligible recipient's award from the SEA must be expended for adult education instructional activities.

(2) The remainder may be used for local administrative costs—noninstructional expenses, including planning, administration, evaluation, personnel development, and coordination—that are necessary and reasonable.

(3) If the administrative cost limits under paragraph (b)(2) of this section are insufficient for adequate planning, administration, evaluation, personnel development, and coordination of programs supported under the Act, the SEA shall negotiate with local grant recipients in order to determine an adequate level of funds to be used for noninstructional purposes.

(Authority: 20 U.S.C. 1203b and 1205(c))

§ 461.41 What are the cost-sharing requirements?

(a) The Federal share of expenditures made under a State plan for any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico may not exceed—

(1) 90 percent of the costs of programs carried out with the fiscal year 1988 grant (a grant that is awarded on or after July 1, 1988 from funds appropriated in the fiscal year 1988 appropriation);

(2) 90 percent of the costs of programs carried out with the fiscal year 1989 (a grant that is awarded on or after July 1, 1989 from funds appropriated in the fiscal year 1989 appropriation);

(3) 85 percent of the costs of programs carried out with the fiscal year 1990 grant (a grant that is awarded on or after July 1, 1990 from funds appropriated in the fiscal year 1990 appropriation);

(4) 80 percent of the costs of programs carried out with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appro-

priated in the fiscal year 1991 appropriation); and

(5) 75 percent of the costs of programs carried out with the fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation) and from each grant thereafter.

(b) The Federal share for American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Virgin Islands is 100 percent.

(c) The Secretary determines the non-Federal share of expenditures under the State plan by considering—

(1) Expenditures from State, local, and other non-Federal sources for programs, services, and activities of adult education, as defined in the Act, made by public or private entities that receive from the State Federal funds made available under the Act or State funds for adult education; and

(2) Expenditures made directly by the State for programs, services, and activities of adult education as defined in the Act.

(Authority: 20 U.S.C. 1209(a); 48 U.S.C. 1681)

§ 461.42 What is the maintenance of effort requirement?

(a) *Basic standard.* (1)(i) Except as provided in § 461.43, a State is eligible for a grant from appropriations for any fiscal year only if the Secretary determines that the State has expended for adult education from non-Federal sources during the second preceding fiscal year (or program year) an amount not less than the amount expended during the third preceding fiscal year (or program year).

(ii) The Secretary determines maintenance of effort on a per student expenditure basis or on a total expenditure basis.

(2) For purposes of determining maintenance of effort, the “second preceding fiscal year (or program year)” is the fiscal year (or program year) two years prior to the year of the grant for which the Secretary is determining the State's eligibility. The “third preceding fiscal year (or program year)” is the fiscal year (or program year) three years prior to the year of the grant for

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which the Secretary is determining the State's eligibility.

Example: Computation based on fiscal year. If a State chooses to use the fiscal year as the basis for its maintenance of effort computations, the Secretary determines whether a State is eligible for the fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation) by comparing expenditures from the second preceding fiscal year—fiscal year 1990 (October 1, 1989–September 30, 1990)—with expenditures from the third preceding fiscal year—fiscal year 1989 (October 1, 1988–September 30, 1989). If there has been no decrease in expenditures from fiscal year 1989 to fiscal year 1990, the State has maintained effort and is eligible for its fiscal year 1992 grant.

Computation based on program year. If a State chooses to use a program year running from July 1 to June 30 as the basis for its maintenance of effort computation, the Secretary determines whether a State is eligible for funds for the fiscal year 1992 grant by comparing expenditures from the second preceding program year—program year 1990 (July 1, 1989–June 30, 1990)—with expenditures from the third preceding program year—program year 1989 (July 1, 1988–June 30, 1989). If there has been no decrease in expenditures from program year 1989 to program year 1990, the State has maintained effort and is eligible for its fiscal year 1992 grant.

(b) *Expenditures to be considered.* In determining a State's compliance with the maintenance of effort requirement, the Secretary considers the expenditures described in § 461.41(c).

(Authority: 20 U.S.C. 1209(b))

§ 461.43 Under what circumstances may the Secretary waive the maintenance of effort requirement?

(a) The Secretary may waive, for one year only, the maintenance of effort requirement in § 461.42 if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances. These circumstances include, but are not limited to, the following:

- (1) A natural disaster.
- (2) An unforeseen and precipitous decline in financial resources.

(b) The Secretary does not consider a tax initiative or referendum to be an exceptional or uncontrollable circumstance.

(Authority: 20 U.S.C. 1209(b)(2))

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§ 461.44 How does a State request a waiver of the maintenance of effort requirement?

An SEA seeking a waiver of the maintenance of effort requirement in § 461.42 shall—

- (a) Submit to the Secretary a request for a waiver; and
- (b) Include in the request—
 - (1) The reason for the request; and
 - (2) Any additional information the Secretary may require.

(Approved by the Office of Management and Budget under control number 1830–0501)

(Authority: 20 U.S.C. 1209(b)(2))

§ 461.45 How does the Secretary compute maintenance of effort in the event of a waiver?

If a State has been granted a waiver of the maintenance of effort requirement that allows it to receive a grant from appropriations for a fiscal year, the Secretary determines whether the State has met that requirement for the grant to be awarded for the year after the year of the waiver by comparing the amount spent for adult education from non-Federal sources in the second preceding fiscal year (or program year) with the amount spent in the fourth preceding fiscal year (or program year.)

Example: Because exceptional or uncontrollable circumstances prevented a State from maintaining effort in fiscal year 1990 (October 1, 1989–September 30, 1990) or in program year 1990 (July 1, 1989–June 30, 1990) at the level of fiscal year 1989 (October 1, 1988–September 30, 1989) or program year 1989 (July 1, 1988–June 30, 1989), respectively, the Secretary grants the State a waiver of the maintenance of effort requirement that permits the State to receive its fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation). In order to determine whether a State has met the maintenance of effort requirement and therefore is eligible to receive its fiscal year 1993 grant (the grant to be awarded for the year after the year of the waiver), the Secretary compares the State's expenditures from the second preceding fiscal year (or program year—fiscal year 1991 (October 1, 1990–September 30, 1991) or program year 1991 (July 1, 1990–June 30, 1991)—with expenditures from the fourth preceding fiscal year—fiscal year 1989 (October 1, 1988–September 30, 1989) or program year 1989 (July 1, 1988–June 30, 1989). If

the expenditures from fiscal year (or program year) 1991 are not less than the expenditures from fiscal year (or program year) 1989, the State has maintained effort and is eligible for its fiscal year 1993 grant.

(Authority: 20 U.S.C. 1209(b)(2))

§ 461.46 What requirements for program reviews and evaluations must be met by a State?

(a) An SEA shall provide for program reviews and evaluations of all State-administered adult education programs, services, and activities it assists under the Act. The SEA shall use its program reviews and evaluations to assist LEAs and other recipients of funds in planning and operating the best possible programs of adult education and to improve the State's programs of adult education.

(b) In reviewing programs, an SEA shall, during the four-year period of the State plan, gather and analyze data—including standardized test data—on the effectiveness of State-administered adult education programs, services, and activities to determine the extent to which—

(1) The State's adult education programs are achieving the goals in the State plan, including the goal of serving educationally disadvantaged adults; and

(2) Grant recipients have improved their capacity to achieve the purposes of the Act.

(c)(1) An SEA shall, each year during the four-year period of the State plan, evaluate in qualitative and quantitative terms the effectiveness of programs, services, and activities conducted by at least 20 percent of the local recipients of funds so that at the end of that period 80 percent of all local recipients have been evaluated once.

(2) An evaluation must consider the following factors:

(i) Projected goals of the recipient as described in its application pursuant to section 322(a)(4) of the Act and § 461.31(c)(4).

(ii) Planning and content of the programs, services, and activities.

(iii) Curriculum, instructional materials, and equipment.

(iv) Adequacy and qualifications of all personnel.

(v) Achievement of the goals set forth in the State plan.

(vi) Extent to which educationally disadvantaged adults are being served.

(vii) Extent to which local recipients of funds have improved their capacity to achieve the purposes of the Act.

(viii) Success of the recipient in meeting the State's indicators of program quality after those indicators are developed as required by section 331(a)(2) of the Act and § 461.3(b)(7).

(ix) Other factors that affect program operations, as determined by the SEA.

(d)(1) Within 90 days of the close of each program year, the SEA shall submit to the Secretary and make public within the State the following:

(i) With respect to local recipients—

(A) The number and percentage of local educational agencies, community-based organizations, volunteer groups, and other organizations that are grant recipients;

(B) The amount of funds provided to local educational agencies, community-based organizations, volunteer groups, and other organizations that are grant recipients; and

(C) The results of the evaluations carried out as required by paragraph (c)(1) of this section in the year preceding the year for which the data are submitted.

(ii) The information required under § 461.10(b)(10).

(iii) A report on the SEA's activities under paragraph (b) of this section.

(iv) A report on the SEA's activities under paragraph (c) of this section.

(2) The reports described in paragraphs (d)(1)(ii) and (iii) of this section must include—

(i) The results of any program reviews and evaluations performed during the program year, and a description of how the SEA used the program reviews and evaluation process to make necessary changes to improve programs; and

(ii) The comments and recommendations of the State advisory council, if a council has been established under § 461.50.

(e) If an SEA has established a State advisory council, the SEA shall—

(1) Obtain approval of the plan for program reviews and evaluation from the State advisory council; and

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(2) Inform the State advisory council of the results of program reviews and evaluations so that the State advisory council may perform its duties under section 332(f)(7) of the Act.

NOTE TO § 461.46: In addition to the Adult Education State-administered Basic Grant Program in this part 461, State-administered adult education programs include the State-administered Workplace Literacy Program (See 34 CFR part 462) and the State-administered English Literacy Program (See 34 CFR part 463).

(Approved by the Office of Management and Budget under control number 1830-0501)

(Authority: 20 U.S.C. 1205a(f)(7) and 1207a)

Subpart F—What are the Administrative Responsibilities of a State?

§ 461.50 What are a State's responsibilities regarding a State advisory council on adult education and literacy?

(a) A State that receives funds under section 313 of the Act may—

(1) Establish a State advisory council on adult education and literacy; or

(2) Designate an existing body as the State advisory council.

(b) If a State elects to establish or designate a State advisory council on adult education, the following provisions apply:

(1) The State advisory council must comply with §§ 461.51 and 461.52.

(2) Members to the State advisory council must be appointed by, and be responsible to, the Governor. The Governor shall appoint members in accordance with section 332(e) of the Act.

(3) Costs incurred for a State advisory council that are paid for with funds under this part must be counted as part of the allowable State administrative costs under the Act.

(4) The Governor of the State shall determine the amount of funding available to a State advisory council.

(5) A State advisory council's staffing may include professional, technical, and clerical personnel as may be necessary to enable the council to carry out its functions under the Act.

(6) Members of a State advisory council and its staff, while serving on the business of the council, may receive subsistence, travel allowances, and

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compensation in accordance with State law and regulations and State practices applicable to persons performing comparable duties and services.

(Authority: 20 U.S.C. 1205a(a)(1), (d)(1), (e))

§ 461.51 What are the membership requirements of a State advisory council?

(a)(1) The membership of a State advisory council must be broadly representative of citizens and groups within the State having an interest in adult education and literacy. The council must consist of—

(i) Representatives of public education;

(ii) Representatives of private and public sector employment;

(iii) Representatives of recognized State labor organizations;

(iv) Representatives of private literacy organizations, voluntary literacy organizations, and community-based literacy organizations;

(v) The Governor of a State, or the designee of the Governor;

(vi) Representatives of—

(A) The SEA;

(B) The State job training agency;

(C) The State human services agency;

(D) The State public assistance agency;

(E) The State library program; and

(F) The State economic development agency;

(vii) Officers of the State government whose agencies provide funding for literacy services or who may be designated by the Governor or the Chairperson of the council to serve whenever matters within the jurisdiction of the agency headed by such an officer are to be considered by the council; and

(viii) Classroom teachers who have demonstrated outstanding results in teaching children or adults to read.

(2) The State shall ensure that there is appropriate representation on the State advisory council of—

(i) Urban and rural areas;

(ii) Women;

(iii) Persons with disabilities; and

(iv) Racial and ethnic minorities.

(b)(1) A State shall certify to the Secretary the establishment of, and membership of, its State advisory council.

(2) The certification must be submitted to the Secretary prior to the beginning of any program year in which the State desires to receive a grant under the Act.

(c) Members must be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council must be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(Approved by the Office of Management and Budget under control number 1830-0501)

(Authority: 20 U.S.C. 1205a (a)(1), (b), (c), and (e))

§ 461.52 What are the responsibilities of a State advisory council?

(a) Subject to paragraphs (b) and (c) of this section, the State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor of the State), and the number, time, place, and conduct of meetings.

(b) The State advisory council shall meet at least four times each year. At least one of those meetings must provide an opportunity for the general public to express views concerning adult education in the State.

(c) One member more than one-half of the members on the council constitute a quorum for the purpose of transmitting recommendations and proposals to the Governor of the State, but a lesser number of members may constitute a quorum for other purposes.

(d) A State advisory council shall—

(1) Meet with the State agencies responsible for literacy training during the planning year to advise on the development of a State plan for literacy and for adult education that fulfills the literacy and adult education needs of the State, especially with respect to the needs of the labor market, economic development goals, and the needs of the individuals in the State;

(2) Advise the Governor, the SEA, and other State agencies concerning—

(i) The development and implementation of measurable State literacy and adult education goals consistent with

section 342(c)(2) of the Act, especially with respect to—

(A) Improving levels of literacy in the State by ensuring that all appropriate State agencies have specific objectives and strategies for those goals in a comprehensive approach;

(B) Improving literacy programs in the State; and

(C) Fulfilling the long-term literacy goals of the State;

(ii) The coordination and monitoring of State literacy training programs in order to progress toward the long-term literacy goals of the State;

(iii) The improvement of the quality of literacy programs in the State by supporting the integration of services, staff training, and technology-based learning and the integration of resources of literacy programs conducted by various agencies of State government; and

(iv) Private sector initiatives that would improve adult education programs and literacy programs, especially through public-private partnerships;

(3) Review and comment on the plan submitted pursuant to section 356(h) of the Act and submit those comments to the Secretary;

(4) Measure progress on meeting the goals and objectives established pursuant to paragraph (d)(2)(i) of this section;

(5) Recommend model systems for implementing and coordinating State literacy programs for replication at the local level;

(6) Develop reporting requirements, standards for outcomes, performance measures, and program effectiveness in State program that are consistent with those proposed by the Federal Inter-agency Task Force on Literacy; and

(7)(i) Approve the plan for the program reviews and evaluations required in section 352 of the Act and § 461.46 and participate in implementing and disseminating the program reviews and evaluations. In approving the plan for the program reviews and evaluations, the State advisory council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved;

(ii) Advise the Governor, the State legislature, and the general public of

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the State with respect to the findings of the program reviews and evaluations; and

(iii) Include in any reports of the program reviews and evaluations the council's comments and recommendations.

(Approved by the Office of Management and Budget under control number 1830-0501)

(Authority: 20 U.S.C. 1205a (d) and (f), 1206a(a)(3)(B))

§ 461.53 May a State establish an advisory body other than a State advisory council?

(a) A State may establish an advisory body that is funded solely from non-Federal sources.

(b) The advisory body described in paragraph (a) of this section is not required to comply with the requirements of section 332 of the Act and this part.

(c) The non-Federal funds used to support the advisory body may not be included in the non-Federal share of expenditures described in § 461.41(c).

(Authority: 20 U.S.C. 1205a and 1209)

PART 464—STATE LITERACY RESOURCE CENTERS PROGRAM

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AUTHORITY: 20 U.S.C. 1208aa, unless otherwise noted.

SOURCE: 57 FR 24100, June 5, 1992, unless otherwise noted.

Subpart A—General

§ 464.1 What is the State Literacy Resource Centers Program?

The State Literacy Resource Centers Program assists State and local public and private nonprofit efforts to eliminate illiteracy through a program of State literacy resource center grants to—

(a) Stimulate the coordination of literacy services;

(b) Enhance the capacity of State and local organizations to provide literacy services; and

(c) Serve as a reciprocal link between the National Institute for Literacy and service providers for the purpose of sharing information, data, research, and expertise and literacy resources.

(Authority: 20 U.S.C. 1208aa(a))

§ 464.2 Who is eligible for a grant?

States are eligible to receive grants under this part.

(Authority: 20 U.S.C. 1208aa(c))

§ 464.3 What kinds of activities may be assisted?

(a) The Secretary makes grants under this part for purposes of establishing a network of State or regional adult literacy resource centers.